

REMARKS

Claims 69-87 are pending and are the subject of the instant Office Action.

Double Patenting Rejection

Claims 69-78 were rejected under the judicially created doctrine of obviousness-type double patenting over claims 1-22 of US Patent No. 6,030,945. Although Applicant respectfully disagrees with the asserted basis for the rejection and the comments in the Office Action regarding the term "blastoma", Applicant is filing herewith a Terminal Disclaimer pursuant to 37 CFR 1.321(c). It is believed that this Terminal Disclaimer overcomes the instant rejection.

Section 103 Rejections

The Examiner rejected pending claims 69, 77 and 78 under Section 103(a) as being unpatentable over Wiley. Claims 69 and 75 were rejected over Wiley in view of Davis. Applicant respectfully traverses each of the Section 103(a) rejections.

The Examiner expressly acknowledges in the Office Action that the Wiley reference "is silent with respect to the treatment of blastoma."

It is respectfully submitted that while the cited Wiley reference may provide an "obvious to try" type of teaching, there would be no reasonable expectation of success given the state of the art of cancer therapy. The Davis reference likewise fails to suggest that a TRAIL or TRAIL related protein could be utilized in the treatment of blastoma. Withdrawal of these rejections is therefore respectfully requested.

Respectfully submitted,
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